

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BRANDON CORDELL BENNETT,

Defendant.

CR-17-68-GF-BMM

ORDER

The Court, at a hearing that was conducted on January 31, 2019, continued Defendant Brandon Cordell's trial until April 15, 2019. (Docs. 135, 137.) The Court, at that same hearing, set a motions deadline for March 15, 2019, and set a hearing on the motions for March 19, 2019. *Id.* Bennett, through his attorney Wendy Holton, filed several last-minute motions on March 15, 2019: Motion to Suppress Cell Phone Evidence (Doc. 141); Motion for Leave to File Nonelectronically (Doc. 144); Motion for Bill of Particulars (Doc. 145); Motion

for a Subpoena Duces Tecum (Doc. 147); and Notice of Renewal of Defendant's Motion to Exclude Rule 414/404(b) Evidence (Doc. 148).

The Government filed an Unopposed Motion to Continue Response Deadlines and Motion Hearing on March 17, 2019. (Doc. 149.) The Government requested an extension of time as the Government was accorded only one business day to file a response to Bennett's motions before the March 19, 2019, motions hearing date. *Id.* The Court conducted a telephonic status conference in this case on March 18, 2019. (Doc. 151.) The Court reviewed the pending motions during the status conference. The Government was represented telephonically by Assistant United States Attorney Ryan Weldon. Bennett was represented telephonically by Wendy Holton.

1. Motion for Extension of Time

The Court granted the Government's motion for extension of time to file a response and to continue the motions hearing. The Court set the Government's response date for March 26, 2019. The Court vacated the hearing set for March 19, 2019. The Court reset the motions hearing for **April 8, 2019, at 1:30 p.m.**

2. Motion to File Conventionally

The Court determined that Bennett's Motion for Leave to File Nonelectronically (Doc. 144) was moot as Bennett's counsel did not need leave of

court to file nonelectronically. The Court was also in possession of the evidence that Bennett's counsel wished to file conventionally.

3. Motion for Subpoena Duces Tecum

The Court also issued a ruling on Bennett's Motion for Issuance of Subpoena Duces Tecum (Doc. 147) at the status conference. Bennett requested that the Court issue a subpoena duces tecum that commands "Counselor Robin Castle, or the custodian of records, Power of Play 1601 2nd Ave. N., Great Falls, Montana to produce any and all counseling reports, statements, or other information with regard to the complaining witness in the above referenced case." (Doc. 147 at 1-2.) The Court granted Bennett's motion with one modification. The subpoena duces tecum will command Robin Castle, or the custodian of records, Power of Play, 1601 2nd Ave. N., Great Falls, Montana to produce counseling records of the complaining witness in this matter. The subpoena duces tecum, however, will command that Robin Castle, or the custodian of records, deliver those records to the Honorable Brian Morris, Missouri River Courthouse so that the Court can conduct an in-camera review of the records.

4. Notice to Exclude Rule 414/404(b) Evidence

The Court elected to defer a ruling on the Rule 414/404(b) until the April 8, 2019, hearing and/or until the pretrial conference on April 15, 2019.

5. Motion for a Bill of Particulars

Bennett moved this Court for a Bill of Particulars “specifying the basis on which Count I of the Indictment specifies that the alleged offense occurred ‘on or about August 14, 2015.’” (Doc. 145 at 1.) The Government represented that a superseding indictment will be filed in this case to amend the alleged offense date contained in Count I of the Indictment. The Court accordingly will defer a ruling on Bennett’s Motion for a Bill of Particulars.

6. Motion to Suppress

Bennett requests that this Court suppress the cell phone evidence in this matter. The Court will conduct a hearing on the motion on April 8, 2019.

For the reasons stated above and stated in open court, IT IS ORDERED:

1. The Government’s Unopposed Motion to Continue Response Deadline and Motions Hearing (Doc. 149) is GRANTED. Government’s response deadline is March 26, 2019. The Court will conduct a hearing on Bennett’s motions on April 8, 2019, at 1:30 p.m.
2. Bennett’s Motion for Leave to File Nonelectronically (Doc. 144) is DENIED AS MOOT.

3. Bennett’s Motion for Subpoena Duces Tecum (Doc. 147) is GRANTED. The Court will issue a subpoena duces tecum to Robin Castle, or the custodian of records, Power of Play, 1601 2nd Ave. N., Great Falls, MT to produce and deliver counseling records of the complaining witness to the

Missouri River Courthouse so that the Court can conduct an in-camera review of the records.

4. The Court will defer ruling on Bennett's Motion for Bill of Particulars (Doc. 145) and on Motion to Suppress Cell Phone Evidence (Doc. 147).

DATED this 18th day of March, 2019.



Brian Morris
United States District Court Judge

